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SENATE BILL 653

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Cisco McSorley

AN ACT

RELATING TO INSURANCE; RESTORING DUTY OF REASONABLE CARE IN  
CONDUCTING TITLE SEARCHES AND EXAMINATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 59A-30-11 NMSA 1978 (being Laws 1985,  
Chapter 28, Section 11, as amended) is amended to read:

"59A-30-11. UNDERWRITING STANDARDS AND RECORD  
RETENTION. --

A. No title insurance policy may be written unless  
the title insurer or its title insurance agent has caused to be  
conducted a reasonable search and examination of the title  
using an abstract plant meeting the requirements of Section  
59A-12-13 NMSA 1978 and has caused to be made a determination  
of insurability of title in accordance with sound underwriting  
practices. ~~[The duty to search and examine imposed by this~~

underscored material = new  
[bracketed material] = delete

1 ~~section is solely for the purpose of enhancing the financial~~  
2 ~~stability of title insurers for the benefit of insureds under~~  
3 ~~title insurance policies. The New Mexico Title Insurance Law~~  
4 ~~is not intended and should not be construed to create any duty~~  
5 ~~to search and examine that runs to the benefit of, or to create~~  
6 ~~any right or cause of action in favor of, any person other than~~  
7 ~~a title insurer.] The title insurer shall be solely liable~~  
8 ~~under the policy for errors and mistakes made by its agents and~~  
9 ~~its employees in the search and examination required by this~~  
10 ~~section.~~

11 B. Evidence of the examination of title and  
12 determination of insurability shall be preserved and retained  
13 in the files of the title insurer or its title insurance agent  
14 for a period of not less than fifteen years after the title  
15 insurance policy has been issued. Instead of retaining the  
16 original evidence, the title insurer or title insurance agent  
17 may in the regular course of business establish a system  
18 whereby all or part of the evidence is recorded, copied or  
19 reproduced by any process that accurately and legibly  
20 reproduces or forms a durable medium for reproducing the  
21 contents of the original. This subsection shall not apply to:

22 (1) a title insurer assuming liability through  
23 a contract of reinsurance; or

24 (2) a title insurer acting as coinsurer if one  
25 of the other coinsuring title insurers has complied with this

underscored material = new  
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section. "